

Remarks/Arguments

A. Status of the Claims

Claims 1, 4, 6, 7, 17-20, 28, 30, and 45-46 are amended. Claims 2-3, 5, 8-16, 25-27, 29, and 34-40 are cancelled. Claims 47-52 are added. Support for the amended claims and new claims can be found throughout the specification and claims as originally filed. *See, e.g.*, specification at pages 3-5 and original claims 4 and 21.

Therefore, claims 1, 4, 6-7, 17-20 and 45-52 are pending, with claims 21-24, 28, 30-33, and 41-44 being currently withdrawn from consideration with the potential of being rejoined at a later time.

B. The Indefiniteness Rejections Are Moot

Dependent claims 10-11, 14, and 16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant disagrees with these rejections, as a person of ordinary skill in the art would understand the phrase “derivatives thereof.” However, in an effort to further the prosecution and secure prompt allowance, this phrase is removed from the rejected claims.

Applicant respectfully requests that the indefiniteness rejections for claims 10-11, 14 and 16 be withdrawn.

C. The Anticipation Rejections are Overcome

The following three anticipation rejections have been presented: (1) claims 1-3, 5-20, 45-46 are allegedly anticipated by U.S. Patent 7,235,397 (“Wechter”) under 35 U.S.C. § 102(e); (2) claims 1-3, 5, 7-9, and 12-14 are allegedly anticipated by U.S. Patent 5,648,069 (“De Labbey”) under 35 U.S.C. § 102(b); and (3) claims 1-4, 7-14, and 17-20 are allegedly anticipated by U.S.

Patent 3,957,971 (“Oleniacz”) under 35 U.S.C. § 102(b). These rejections are addressed in the following subsections.

1. Claims 1-3, 5-20, and 45-46 Are Not Anticipated by Wechter

As noted by the Examiner, Wechter appears to disclose a composition that includes glucose, L-Methionine, N-Acetyl Glucosamine, and sodium bicarbonate. Wechter at cols. 20-21 (Table 1). This composition also includes approximately forty other ingredients. *Id.* The composition is also characterized as a “GSI-1 type Spirochete **culture medium**.” *Id.* at col. 20, line 9 (emphasis added). It appears that the “culture medium” is formulated as a solution. *See id.* at col. 21, lines 11-37. The medium is used to culture a bacterial organism such as spirochetes. *Id.* at col. 21, lines 43-45. It is also used to screen for spirochetes (col. 22, line 13), diagnose particular bacterial infections (col. 22, lines 52-53), or to prepare pellets for antimicrobial susceptibility testing (col. 24, lines 10-11).

By comparison, Applicant’s claimed invention concerns a topical skin care composition that includes glucose, glucosamine, at least one essential amino acid, and sodium bicarbonate. The composition is a cream, a lotion, an anhydrous base, or an emulsion. *See* claim 1. It is respectfully submitted that skin care creams, lotions, anhydrous bases, and emulsions provide structural limitations to claim 1. Indeed, the Oleniacz reference cited by the Examiner appears to recognize this. *See* Oleniacz at col. 5, lines 44-47 and line 67 to col. 6, line 2, and Examples 16-17 and 19-20.

There does not appear to be any disclosure or suggestion of formulating the Wechter GSI-1 type Spirochete culture medium solution into a topical skin care cream, anhydrous base, lotion, or emulsion. Therefore, the Wechter reference does not anticipate the presently claimed invention. *See In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990) (“For a prior art reference to

anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.”).

For at least the reasons stated above, Applicant respectfully requests that the current anticipation rejection be withdrawn.

2. Claims 1-3, 5, 7-9, and 12-14 Are Not Anticipated by De Labbey

The De Labbey reference is cited as disclosing a lotion comprising magnesium chloride, aspartic acid, isoleucine, and serine, “among other components in water.” Office Action at page 4.

Applicant notes that independent claim 1 concerns a topical skin care composition that includes glucose, glucosamine, an essential amino acid, and sodium bicarbonate. It is respectfully submitted that De Labbey fails to disclose or suggest this claimed combination of ingredients in a composition. Therefore, this reference does not anticipate the presently claimed invention. *See In re Bond*, 910 F.2d at 832.

For at least the reasons stated above, Applicant respectfully requests that the current anticipation rejection be withdrawn.

3. Claims 1-4, 7-14, and 17-20 Are Not Anticipated by Oleniacz

The Oleniacz reference is cited as disclosing a comprising glucose, glucosamine, leucine, and aspartic acid, “among other components in the claimed range.” Office Action at page 4.

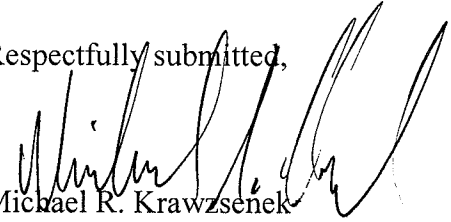
Applicant notes that independent claim 1 concerns a topical skin care composition that includes glucose, glucosamine, an essential amino acid, and sodium bicarbonate. It is respectfully submitted that Oleniacz fails to disclose or suggest this claimed combination of ingredients in a composition. Therefore, this reference does not anticipate the presently claimed invention. *See In re Bond*, 910 F.2d at 832.

For at least the reasons stated above, Applicant respectfully requests that the current anticipation rejection be withdrawn.

D. Conclusion

Applicants believe that the present document is a full and complete response to the Office Action mailed September 19, 2007. The present case is in condition for allowance and such favorable action is requested. The Examiner is invited to contact the undersigned Attorney at (512) 536-3020 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,


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